

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 02-1677**

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JERRY PLYMALE,

Petitioner,

versus

APOGEE COAL COMPANY; DIRECTOR, OFFICE OF  
WORKERS' COMPENSATION PROGRAMS, UNITED STATES  
DEPARTMENT OF LABOR,

Respondents.

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On Petition for Review of an Order of the Benefits Review Board.  
(01-0823-BLA)

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Submitted: November 19, 2002

Decided: December 4, 2002

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Before WILKINS, WILLIAMS, and TRAXLER, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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S.F. Raymond Smith, RUNDLE & RUNDLE, L.C., Pineville, West  
Virginia, for Petitioner. Mary Rich Maloy, JACKSON & KELLY,  
P.L.L.C., Charleston, West Virginia, for Respondents.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Jerry Plymale seeks review of the Benefits Review Board's decision and order affirming the administrative law judge's denial of black lung benefits pursuant to 30 U.S.C. §§ 901-945 (2000). Our review of the record discloses that the Board's decision is based upon substantial evidence and is without reversible error. Accordingly, we affirm on the reasoning of the Board. See Plymale v. Apogee Coal Co., No. 01-0823-BLA (BRB May 23, 2002). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED